

Minutes (draft)
FORENSIC SCIENCE BOARD MEETING
May 9, 2007 at 10:00 a.m.
DFS Central Laboratory, Training Room 1

Board Members Present:

Mr. Steven Benjamin
Mr. Joseph Bono
Dr. Marcella Fierro
Colonel W. Steven Flaherty
Ms. Katya Herndon (designee for Mr. Karl Hade)
Sheriff F. W. Howard
Mr. Robert Jensen
Mr. Alan Katz (designee for Ms. Marla Decker)
Ms. Demris Lee
Mr. John Mahoney (designee for Mr. Leonard Cooke)
Ms. Elizabeth Russell
Mr. S. Randolph Sengel, Chair

Board Members Absent:

Senator Kenneth Stolle

Staff Members Present:

Ms. Wanda Adkins, Office Manager
Mr. Jeff Ban, Forensic Biology Section Chief
Dr. David Barron, Central Laboratory Director
Ms. Leslie Ellis, Human Resources Director
Ms. Michele Gowdy, Department Counsel
Ms. Linda Jackson, Controlled Substances Section Chief
Ms. Meghan Kish, Board Secretary
Mr. Ron Layne, Director of Administration and Finance
Mr. Pete Marone, Department Director
Mr. Jim Pickelman, Firearms Section Chief
Ms. Susan Scholl, Eastern Laboratory Director
Mr. Steve Sigel, Deputy Director

Call to Order:

Mr. Sengel called the meeting to order at 10:04 a.m.

Adoption of Agenda:

Mr. Sengel asked if there were any changes to be made to the agenda. There were none. Mr. Bono made a motion that the agenda be adopted as it is written. The motion was seconded. The agenda was adopted unanimously.

Approval of draft minutes

Mr. Sengel directed the Board's attention to the February 7, 2007 Meeting Minutes, and asked if there were any comments or changes. Ms. Herndon made a motion that the minutes be adopted, and the motion was seconded. The minutes were adopted by unanimous vote.

Chairman's Report:

Mr. Sengel reported that he had received a letter from Mr. Barry Fisher, the newly elected Chairman of the Scientific Advisory Committee. In the letter, Mr. Fisher designated himself and Mr. Bono as the two members of the SAC who would serve on the Board, pursuant to Virginia Code § 9.1-1109, effective July 1, 2007.

Mr. Sengel publicly thanked Demris Lee for her contributions to the Board. He explained that her term is expiring, and due to work obligations, is unable to be considered for re-appointment.

Mr. Sengel explained that, during the month of July, he was intending to visit each of the regional laboratories, and speak with the firearm and toolmark, latent print, and toxicology examiners at each of the facilities, in an attempt to solicit suggestions regarding submission procedures for each of their sections. He announced his intention to report back to the Board about his findings with the idea that, should the Board find it appropriate, they could act to improve submission procedures.

Mr. Sengel, in his last meeting as chair, observed that the relationship between the Board and the Department as a work in progress, and expressed a hope that the building blocks for a beneficial relationship had been put into place during the two years since the Board's creation. He thanked the Board for the opportunity to serve as Chairman, and explained that it had been an honor for him.

Director's Report:

Mr. Marone reported that the solicitation for bids had gone out for the breath alcohol equipment. He reported that, of four viable manufacturers, three had attended the pre-bid conference, and two had submitted bids. He reported that the Department was in the process of evaluating the technical specifications of the instruments. If both vendors meet the specifications, then the sealed dollar figures will be revealed, hopefully by the end of the month. Once this is done, the vendor must supply prototypes to the Department for evaluation. Currently, the two vendors that provided bids were Intoximeter and Intoxylizer.

Mr. Jensen inquired if training and implementation plans had been developed yet. Mr. Marone explained that, due to the huge learning curve seen initially with changeover from the Breathalyzer 900A to the automated infrared technology, a lot of the specifications were intended to make the new model transparent to the users. There is a training plan in place, which involves implementation in local jurisdictions first, prior to moving outward.

Mr. Marone explained that the Department had applied for a DMV grant to assist in covering the financial costs of that training program, which involves transportation and equipment costs.

Mr. Jensen inquired if the law enforcement users had any input on the type of machine selected. Mr. Marone responded that input was received from law enforcement by way of the instructors that assist the department with the basic classes, who were consulted when developing specifications.

Mr. Bono asked if there was a plan in development to get the Department accredited as a calibration laboratory for these instruments, or if there were plans to outsource the calibrations. Mr. Marone responded that the Department does intend to seek accreditation as a calibration laboratory, but explained that the program for assessing the laboratories will likely not be available until next year.

In addition to the DMV grant, Mr. Marone reported that the Department had applied for a post-conviction grant through NIJ. Due to certain strict requirements, the Department may have to take several extra steps in order to meet the guidelines. Although the budget has been accepted already, the Department is still waiting for some guidance from NIJ on how to proceed. Some general discussion followed.

Mr. Marone next reported on the status of the post-conviction testing projects. He explained that 60-70 cases are at the private laboratory. The data from the first 8 cases has come back, but the cases were either inconclusive, or did not contain enough information to yield results. He also explained that Bode, the independent laboratory, is merely coming up with the data, and that Department examiners are then using that data to come up with the results. He announced that the screening process has been going well, and that research from Virginia State Police, the courts, and the Commonwealth's Attorney's office has helped to identify many of the cases as ineligible. Many of the listed suspects were never convicted of the crime. He reported that we are almost at the point of sending batches over to be tested every couple of weeks. Discussion followed between several Board members and DFS staff regarding specifics of the testing process.

Mr. Marone reported that the backlog situation was going well. The drug backlog was now resting at around 2,000-2,200 per month. The average time a case spends in the system is around 23 days. The total number of cases that are over 30 days in the system is down to 191. The drug section has been directed to try to make it so there are no cases over 30 days old. Mr. Marone also reported that the firearms section had reduced its backlog to only 1,000 cases, only a few hundred of which are from 2006. The goal for

this fiscal year is to complete all 2006 cases. Mr. Marone explained that interviews will soon be taking place for five additional firearms trainee positions, which will add five more examiners to the firearms section in two years time. He stated that, in addition to these efforts, pilot programs such as the one discussed at the last meeting involving the Norfolk Police Department and NIBIN are helping to reduce the amount of work required of the Department in hundreds of cases. Of these roughly 600 cases, 372 have been entered into NIBIN by the police, which led to a dozen associations, two of which involved homicide. Mr. Marone went on to explain some other benefits of this program, and responded to requests for clarification of the steps involved in the process. This led to discussion of the firearms procedure manual, and the process used by examiners when making associations and identifications in casework.

Mr. Marone reported that DNA's backlog was reduced from 1400 to 1227 cases, and latent prints were down to 380 from 486 backlogged cases. He completed his summary of the backlog situation by stating that his ultimate goal for the Department was to work every case within 30 days from receipt of the evidence. Mr. Jensen inquired if the Board could receive reports on the backlogs that include 30, 60, and 90 day trends, so that the Department's progress can be more clearly followed. Mr. Marone responded that the Department would look into providing that information for the next meeting.

Mr. Marone moved on to discuss Capital Submissions. He explained that the Eastern laboratory is looking at a lease to build out the fifth floor, and has every intention to expand. Groundbreaking is set for the Northern Laboratory on May 22, 2007, with a projected completion date of January, 2009. The Western laboratory, although it cannot currently expand, is still considering the purchase of adjacent land to allow for additional space in the future. The Department Administration will be moving to a building across the street from the Central laboratory once construction of that building has been completed. The Department plans to expand the laboratory space in the future. Mr. Marone finished his Director's report by stating that summaries of these projects have all been forwarded to the Department of Planning and Budget so that they are aware of the future budgeting requirements for DFS.

Subcommittee on Familial Searches Report:

Ms. Lee, a member of the Subcommittee, presented a summary on the meeting held the day before. She informed the Board that the Subcommittee, comprised of Dr. Frederick Bieber (Chairman), Mr. Dominic Denio, Dr. Arthur Eisenberg, Dr. Dan Krane, and herself, had heard several presentations, including one from Ms. Gowdy, Department Counsel, regarding the legislation in place regarding the databank. Mr. George Li, CODIS Administrator for DFS, presented on current CODIS capabilities, and how CODIS is currently being used by the Department to perform searches. He explained the difference between high, moderate, and low stringency searches, and responded to inquiries from subcommittee members about current Department policies and practices. Mr. Ban then presented examples of two situations in the past ten years in which familial relationships have played key roles in the forensic analysis, and discussed the possible application of familial searches to casework in Virginia. Dr. Krane then presented on

statistical analyses of pairs (related and unrelated) in individuals, using results from experiments with simulated scenarios, which led to discussions of acceptable error rates, as well as the arbitrary nature of trying to determine thresholds for matches.

Ms. Lee explained that Dr. Eisenberg presented on the current status of familial searches within the U.S. today. He explained that studies are underway with CODIS, as well as private sector programs.

Ms. Lee reported that the subcommittee expressed interest in having Dr. Tom Callahan, the CODIS Program Manager at the FBI, address the committee on the current status, the issues facing the program, and the future state of CODIS at a future meeting. Later in the meeting, the subcommittee voted to ask the Department to do a preliminary impact study to look at the cost/personnel/time involved in producing a Y-STR profile for male offender samples going into the Virginia Database from a given point forward.

At the end of Ms. Lee's summary, Mr. Bono inquired about the upsides to familial searches, as it seemed to him that the subcommittee discussions had focused on the negative factors. Ms. Lee explained that, with the right software, familial searches would generate more leads for law enforcement, a benefit that Mr. Benjamin asserted was crucial.

Mr. Benjamin recalled that Dr. Dan Krane had been appointed to chair the subcommittee and inquired as to why this had changed. Mr. Bono explained that he had contacted Dr. Krane on multiple occasions prior to the meeting, and having received no response, asked Dr. Bieber to chair the subcommittee.

Discussion of Collection and Reporting Data:

Mr. Sengel explained that he had received a number of requests via email from Mr. Jensen, and suggested that those requests be addressed at this point in the meeting. Speaking from his business background, Mr. Jensen inquired if the Department had developed any methods for tracking user satisfaction in place. Mr. Marone responded that, as a part of the process of seeking ISO accreditation, a survey is being developed. Mr. Jensen requested that a sample be provided at the next meeting.

Mr. Jensen next inquired if there was a method to track the quality and quantity of specimens submitted to the lab. Mr. Sengel responded that, on multiple occasions, the Department was able to provide him with ample information regarding submissions. Mr. Marone added that, although the tracking methods are somewhat anecdotal and informal, they are in place. There is an ongoing dialogue between the laboratory, prosecutors, and law enforcement personnel to deal with this on a case-by-case basis.

Mr. Jensen requested that the Department provide quarterly data reports to Board. Mr. Marone stated that that should not be a problem. He added that it may not be in the same format that Mr. Jensen suggested, but that the information could be provided.

Mr. Jensen asked if the Department had developed a training model for incoming trainees. Mr. Marone explained that the training manuals for the sections were regularly compared against those for other laboratories, and were updated to meet or exceed the requirements of other agencies. Mr. Jensen suggested that perhaps an outside source should review the process. Mr. Bono explained that there was no need to outsource, and that the task could instead be delegated to the Scientific Advisory Committee. Mr. Marone concurred, pointing out that that duty was outlined in the SAC's bylaws.

Mr. Jensen made a motion that the Scientific Advisory Committee undertake a benchmarking system for the effectiveness of the recruitment, screening, and training of new scientists within an established timeframe. Mr. Bono seconded the motion. There was no discussion, and the motion was put to vote. All were in favor, and the motion passed.

Elections:

Mr. Sengel announced that his term as Chairman of the Board was ending on June 30, 2007, and that the Board needed to elect a new Chairman for the August meeting. Colonel Flaherty, on behalf of the Board, thanked Mr. Sengel for his hard work and dedication to the Forensic Science Board, as well as the Department of Forensic Science.

Mr. Benjamin nominated Mr. Randy Sengel. Mr. Sengel reported that the Board's bylaws do not permit him to serve a third consecutive term, and thus he would have to decline.

Colonel Flaherty nominated Mr. Joseph Bono for the position of Chair. The nomination was seconded. There were no further nominations, and thus Mr. Bono was elected Chairman of the Forensic Science Board, to serve from July 1, 2007 to June 30, 2008.

Mr. Sengel next announced that the Board would have to vote on the position of vice-chair, a position currently held by Colonel Flaherty. Ms. Herndon nominated Colonel Flaherty for a second term. That nomination was seconded. No other nominations were made; Colonel Flaherty was elected to serve a second term as vice-chair.

Director Marone stood and reiterated Colonel Flaherty's gratitude to Mr. Sengel for acting as Chairman of the Board for the past two years. He also thanked Mr. Bono for his work as Chairman of the Committee, and Ms. Lee for her work on both the Board and the Committee. Mr. Marone presented all three individuals with Certificates of Appreciation.

New Business:

Mr. Benjamin recalled that Mr. Marone had announced that the Department had hired a Section Supervisor for the Mitochondrial DNA Section, and asked who the individual was. Mr. Marone informed the Board that Mr. Brad Jenkins, formerly a group supervisor in the Forensic Biology Section at the Central Laboratory. Mr. Jenkins is currently in training with Ms. Lee's AFDIL laboratory.

Public Comment:

Mr. Sengel asked if any member of the public would like to address the board. No one came forward.

Adjourn:

The meeting adjourned at 12:00 p.m.